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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/421,963	10/20/1999	KEVIN L. SCHULTZ	5150-36800	4855

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VO, TUNG T

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

2613

DATE MAILED: 05/06/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/421,963	SCHULTZ ET AL. <i>(Handwritten mark)</i>
	<b>Examiner</b>	<b>Art Unit</b>
	Tung T. Vo	2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 24 March 2003.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

## **DETAILED ACTION**

### *Drawings*

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 3/24/03 has been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 1-5, 13-20, 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Perry et al. (US 5,903,341) as set forth in previous Office Action, Paper 2, and the discussion follows.

Re claims 1 and 26, Perry discloses a system and its method for acquiring images of variable sized objects the system comprising:

an object detector (the detection software component 88 of fig. 88) for detecting presence of a first object and providing a detection signal to an image sensing device that is a scan-line camera (50 of fig. 5) (note the video cameras (50) are triggered by the object software detector(88)to detect the presence of the first object and to pass the scan lines that contain information to a video processing software component (90), because the object is on the conveyor that is moving so that the cameras and software detector (50 and 88) are detecting the absence of the firs object, see also col. 5, lines 11-19);

the image sensing device is the camera (50) for generating image data corresponding to the first object;

a acquisition device (88 of fig. 5) for initiating storage of the image data corresponding to the first object in response to the image acquisition device detecting the presence of the first object (col. 6, lines 1-23) (note Direct Memory Access (DMA) contained buffers that are used to store the captured image based on the time is set in each buffer);

wherein the acquisition device further comprises an object detector (98 of fig. 5) for detecting the absence of the first object (col. 5, lines 30-62) (note the detector (98) detects the first object that has been passed by, and deactivate the camera (50), End Scanline);

wherein the acquisition device (88 of fig. 5) for discontinuing storage of the image data corresponding to the first object in response to the image acquisition device detecting the absence of the first object by the detection (98 of fig. 5) (note End Scanline).

***Response to Arguments***

4. Applicant's arguments with respect to claims 1, 16, 18 have been considered but they are not persuasive.

In the remarks, pages 3 and 4, the applicant argued that Perry does not teach or suggest a device that detects a presence of a first object and/or an absence of the first object.

In response, the examiner respectfully disagrees with the applicant. It is submitted that Perry discloses the image acquisition device (cameras) comprises a counter (a 32 bit un-signed counter (89) is incremented (89 of fig. 5) for counting a number of scan lines corresponding to the first object, wherein the image acquisition device configured (a) start the counter in response to the presence of the object detected by the object detector (92) (note Start Scanline), (b) to terminate the counter in response to the object detector (98) detecting the absence of the object (note End Scanline), see (col. 5, lines 37-62); wherein the image acquisition device records a final value of the counter after counter terminates counting (col. 5, lines 30-36). Perry further teaches the device (cameras and software detection component 50 and 88 of fig. 5) detects a presence of the first object and/or an absence of the first object (col. 5, lines 11-14). In view of the discussion above, Perry anticipates the claimed features.

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5. Claim 26 is rejected under 35 U.S.C. 102(e) as being anticipated by Perry et al. (US 5,903,341).

Re claim 26, see analysis in claim 1 as set forth in the previous Office Action, paper No. 2, and the discussion above.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 6, 9, 11, 12, 21, 23, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry et al. ((US 5,903,341) in view of White et al. (US 4,972,494) as set forth in the previous Office Action, Paper No. 2.

8. Claims 7, 8, 10, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry et al. ((US 5,903,341) in view of White et al. (US 4,972,494) further in view of Miller (US 4,760,270) as set forth in the previous Office Action Paper No. 2.

***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung T. Vo whose telephone number is (703) 308-5874. The examiner can normally be reached on 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on (703) 305-4856. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

T.Vo  
April 23, 2003

  
CHRIS KELLEY  
SUPERVISOR, EXAMINER  
TECHNOLOGY, 2600